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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN REPLY REFER TO:

Honorable Mitch McConnell
United States Senate
120 Russell Office Building
Washington, D.C. 20510

93-253

Dear Senator McConnell:

This in reply to your letter of October 29, 1993, on behalf of your constituents, Mr. George C. Dick. Mr. Dick is concerned about the impact of recent legislation on such radio services as the Interactive Video and Data Service (IVDS). Your letter was referred to me because the Office of Plans and Policy is responsible for implementing the competitive bidding provisions of the Omnibus Budget Reconciliation Act of 1993 (Budget Act).

On August 10, 1993, President Clinton signed the Budget Act. The Budget Act affected the Commission by, among other things, limiting the Commission's lottery authority and granting the Commission authority to conduct auctions of the spectrum (competitive bidding). Further, the Budget Act permits the Commission to conduct lotteries for radio service applications that were accepted for filing prior to July 26, 1993. Because the Commission accepted IVDS applications for nine service areas prior to July 26, 1993, the Commission conducted a lottery for such service areas on September 15, 1993, as previously announced in a Public Notice, DA 93-935 (July 23, 1993). Therefore, the Budget Act did not affect any IVDS applications accepted for filing prior to July 26, 1993.

In addition, the Budget Act provided the Commission with 210 days from its date of enactment, or March 8, 1994, to issue final rules concerning competitive bidding. Accordingly, on September 23, 1993, the Commission initiated a rule making proceeding to implement the competitive bidding provisions of the Budget Act. Notice of Proposed Rule Making (NPRM), PP Docket 93-253 (adopted September 23, 1993, released October 12, 1993). The NPRM proposed, among other things, to subject future IVDS applications to competitive bidding. In addition, the Commission proposed certain investment incentives, such as installment payment plans with interest, for small businesses and other entities designated by the Budget Act in order to ensure their economic opportunity under a system of competitive bidding. The public, including your constituents, are invited to submit comments to this proceeding by November 10, 1993, and reply comments by November 24, 1993. I can assure you that the Commission will give full consideration to all comments filed in the competitive bidding rule making proceeding.

I trust this is responsive to your inquiry.

Sincerely,

Robert Pepper

Robert Pepper
Chief
Office of Plans and Policy

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MITCH McCONNELL
KENTUCKY

United States Senate

WASHINGTON, DC 20510-1702
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COMMITTEES
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ETHICS (VICE CHAIRMAN)

*Opp
Auction
4454*

October 29, 1993

Mr. James H. Quello
Chairman
Federal Communications Commission
1919 M Street
Washington, D.C. 20554

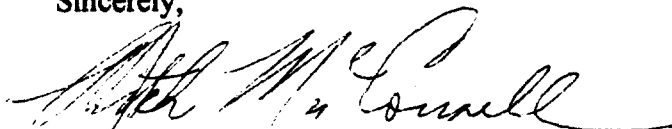
Dear Mr. Quello:

Mr. George C. Dick of Louisville, Kentucky recently shared with me his concerns regarding the Federal Communications Commission's (FCC) policy for distributing frequencies for Interactive Video and Data Service (IVDS).

I would greatly appreciate your review of his concerns. For your convenience, I have enclosed a copy of Mr. Dick's correspondence.

Thank you very much for your consideration.

Sincerely,



MITCH McCONNELL
UNITED STATES SENATOR

MM/rjb

Enclosure



October 25, 1993

Mr. James Quello
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Dear Mr. Quello,

I am writing you concerning the upcoming FCC decision concerning whether to distribute the rights to the IVDS radio spectrum by lottery or by auction.

I have invested over \$125,000 in engineering work and application fees for the remaining markets with a company called Romulus Engineering (IVD) Inc. Should I not be able to participate in IVDS because the FCC decides to auction off this spectrum, I stand to lose the majority of that investment, as the engineering fees have been consumed to prepare the applications. They are not recoverable.

I run a small business here in Kentucky, and this loss would be catastrophic to me. Though I realize I was not guaranteed to win a market in the lottery, by making such a large investment I was able mathematically to increase my odds enough to give me a good chance of winning at least one license. It is through the lottery system that I as a small businessman have the opportunity to compete with multi-billion dollar corporations for a public good that is the property of all the people of the United States. An open auction will deprive me of that opportunity as I do not have the resources to compete against giant corporations.

Further, and what is more distressing, is that the rules for IVDS have changed after a substantial amount of time has passed and money spent. It is one thing to auction future radio spectrum when everybody knows from the beginning what the rules of the game are. But to change what began as a lottery into an auction is unfair, and will penalize me and hundreds of other honest citizens without good reason. Whether or not an auction might bring in more money to the FCC is not the relevant issue. This question is much larger: it is a matter of ethics and public trust in our government. To reverse course in mid-stream on IVDS would be a patent denial of the ideals and principles upon which America was founded.

I have forwarded copies of this letter on to my congressman and President Clinton, and I trust that you and my elected governors will have the moral courage to make the right choice: which is to keep the IVDS lotteries in place as originally announced.

Regards,

George C. Dick
George C. Dick



October 25, 1993

Honorable Mitch McConnell
United States Senate
120 Russell Senate Office Bldg.
Washington, DC 20510

Dear Senator McConnell,

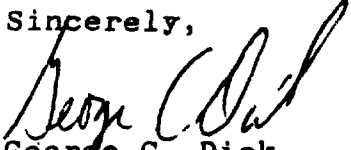
I am writing you concerning a problem I have with the FCC. A copy of the letter I sent to Mr. James Quello, the commissioner, is enclosed. On January 16, 1992, the FCC (GEN Docket No. 91-2) adopted the rules governing the use of frequencies and the application process for Interactive Video and Data Service (IVDS), which stated the a lottery would be the method of choosing licensees. The new deficit reduction bill of 1993 prescribed a change in the rules governing FCC distribution of future radio spectrum, whereby an auction may be held instead.

I believe that the bill has inadvertantly allowed the IVDS to be included as a candidate for auction. Please note that technical language used in the law gives the FCC the right to determine whether or not to use lottery or auction, based on whether or not the consumer will have to pay a subscription fee for the service (like cable), or will only pay for the service through transaction fees. Nine of the top markets have been selected through a lottery process on Sept. 15, 1993 (having been "grandfathered" in). All of the applications submitted for these markets state that the consumer will *NOT* be charged a subscription fee. I believe this is the best evidence of how the IVDS airwaves will be used.

For this reason, and more importantly, because I do not think it is fair or wise to change the application rules for IVDS once they have been announced, I request that you contact Mr. Quello and request that all the remaining markets for IVDS should be lotteried (and soon). With the new entrants of Bell Atlantic-TCI (who plan to introduce interactive TV through cable or phone), it is not certain that the IVDS airwaves may ever be used. An auction process could take years, and never produce the revenue which has been projected.

Thank you so much for your time and support.

Sincerely,


George C. Dick
President
Four Colour Imports, Ltd.